Nonessential products, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: August 4, 1994.

Carol M. Browner,

Administrator.

Part 82, chapter I, title 40, of the code of Federal Regulations, is amended to read as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

2. Section 82.156 is amended by adding paragraph (i)(5) to read as follows:

§ 82.156 Required practices.

* * * * *

(i) * * *

(5) Rules stayed for reconsideration. Notwithstanding any other provisions of this subpart, the effectiveness of the following rules, only to the extent described below, is stayed from September 16, 1994 to December 16, 1994. 40 CFR 82.156(i)(1), (i)(3), and (i)(4), only as these provisions apply to industrial process refrigeration equipment.

[FR Doc. 94–19767 Filed 8–16–94; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB63

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Lilium Occidentale (Western Lily)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act) for the plant *Lilium occidentale* (western lily). This lily is known to occur in 31 small, widely separated populations in sphagnum bogs, coastal scrub and prairie, and other poorly drained soils along the coast of southern Oregon and northern California. Threats to the species include development (e.g., roads, cranberry farms, buildings, and associated infrastructure), competition from encroaching shrubs and trees into lily habitat, bulb collecting, and grazing by domestic livestock and deer. Human activities have interrupted natural processes of bog and wetland creation and maintenance, so that there are fewer bogs in early successional stages suitable for this lily. This rule implements the Federal protection and recovery provisions provided by the Act for this species.

EFFECTIVE DATE: September 16, 1994.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Boise Field Office, U.S. Fish and Wildlife Service, 4696 Overland Rd., Room 576, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Dr. Robert L. Parenti, Botanist, at the above address (208/334–1931, FAX 208/334–9493).

SUPPLEMENTARY INFORMATION:

Background

Carl Purdy first collected and described *Lilium occidentale* (western lily) from unspecified locations in the headlands around Humboldt Bay, California (Purdy 1897). There are no other taxonomic treatments of this lily. Some researchers have speculated that separate Oregon and California varieties of the lily may exist (Ballantyne 1980). The variation between lilies in these two regions is now believed to be due to environmental differences; i.e. wetter (bog) sites and drier (coastal prairie) sites, and not geographic variation (Mark Skinner, California Native Plant Society, pers. comm., 1991). In some instances, *L. occidentale* is known to hybridize with *L. columbianum* (tiger lily) that grows in generally drier sites. Hybrids are known only from disturbed sites such as road edges.

Lilium occidentale, a perennial in the lily family (Liliaceae), grows from a short unbranched, rhizomatous bulb, reaching a height of up to 1.8 meters (5 feet (ft)). Leaves grow along the unbranched stem singly or in whorls and are long and pointed, roughly 1 centimeter (cm) wide and 10 cm long (0.5 inch (in) by 4 in). The nodding flowers are red, sometimes deep orange, with yellow to green centers in the shape of a star and spotted with purple. The six petals (tepals) are 3 to 4 cm (1 to 1.5 in) long and curve strongly backwards. This species can be distinguished from similar native lilies by the combination of pendent red flowers with yellow to green centers in the shape of a star, highly reflexed petals, non-spreading stamens closely surrounding the pistil, and an unbranched rhizomatous bulb. *Lilium columbianum* is yellow to orange and grows from a typical ovoid bulb; *L. vollmeri*, *L. pardilinum*, and *L. maritimum* can have red tepals, but none have the distinctive characters of stamens that stay close to the pistil and a green central star (which may change to yellow with age).

Lilium occidentale has an extremely restricted distribution within 2 miles (3.2 kilometers (km)) of the coast from Hauser, Coos County, Oregon to Loleta, Humboldt County, California. This range encompasses approximately the southern one-third of the Oregon coast and the northern 100 miles (161 km) of the California coast. Its extreme westerly distribution is the origin of its specific name. The plant is currently known from 7 widely separated regions along the coast, and occurs in 31 small (2 square meters (2.4 square yards) to 4 hectares (10 acres) in area), isolated, densely clumped populations. Of the 25 populations known in 1987 and 1988, 9 contained only 2 to 6 plants, 5 contained 10 to 50 plants, 6 contained 51 to 200 plants, 4 contained 201 to 600 plants, and 1 contained almost 1,000 plants (Schultz 1989). At some sites, particularly the sites with more than 200 plants, the majority of plants were non-flowering, which is probably an indication of stress (Schultz 1989). Schultz calculated a known population of 661 flowering and at least 2,750 non-flowering plants in 1988. Since then, an estimated total of 1,000 to 2,000 flowering plants have been discovered at 4 sites near Crescent City, California, where none were previously known (Dave Imper, Humboldt State University Foundation, pers. comm., 1991). In addition, a population of about 125 flowering plants was discovered near Brookings, Oregon, in 1991 (Margie Willis, Oregon Department of Parks and Recreation, pers. comm. 1991), and a population of 13 flowering plants was discovered near Bandon, Oregon, in 1992. The known populations occur on State of Oregon (15), county (1), private (15) including 1 site on land owned by The Nature Conservancy, and State of California (2) lands. Two sites span two ownerships.

In Oregon, Schultz (1989) identified a 20-mile stretch of coast from Bandon to Cape Blanco as an area likely to contain undiscovered populations of *Lilium occidentale*. Previously, Ballantyne (1980) searched this area and did not find new populations, but his visit was after flowering when the plants would have been inconspicuous. It is possible this area may support the lily. In California, little suitable habitat remains

that has not already been surveyed (Dave Imper, pers. comm., 1992). The extremely dense vegetation in the coastal scrub habitat and around bogs makes surveying for the lily difficult.

Lilium occidentale grows at the edges of sphagnum bogs and in forest or thicket openings along the margins of ephemeral ponds and small channels. It also grows in coastal prairie and scrub near the ocean where fog is common. Herb and grass associates include *Calamagrostis nutkaensis* (Pacific reedgrass), *Carex* sp. (sedge), *Sphagnum* sp. (sphagnum moss), *Gentiana sceptrum*, and *Darlingtonia californica* (California pitcher-plant). Common shrub associates are *Myrica californica* (wax-myrtle), *Ledum glandulosum* (Labrador tea), *Spiraea douglasii* (Douglas' spiraea), *Gaultheria shallon* (salal), *Rhododendron macrophyllum* (western rhododendron), *Vaccinium ovatum* (evergreen huckleberry), and *Rubus* sp. (blackberry). Tree associates include *Pinus contorta* (coast pine), *Picea sitchensis* (sitka spruce), *Chamaecyparis lawsonia* (Port Orford cedar), and *Salix* sp. (willow) (Schultz 1989).

Lilium occidentale has not been widespread in recent times. Historical records indicate that it was once more common than it is today. After the ice age, rising sea levels flooded marine benches where bogs and coastal scrub would have been more extensive than today. That may account for the patchiness of its current habitat distribution. It is known or assumed to be extirpated in at least nine historical sites, due to forest succession, cranberry farm development, livestock grazing, highway construction, and other development. Its status is uncertain in at least seven other historical sites (Schultz 1989). These factors continue to threaten the lily, with development taking a primary role. Two known populations near Brookings, Oregon were partially or totally destroyed by unpermitted development-related wetland fill activity in 1991. The largest known population and three smaller populations near Crescent City, California are currently threatened by housing and recreation development (Dave Imper, pers. comm. 1991).

Previous Federal Action

Federal action on this plant began as a result of section 12 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In that document, *Lilium occidentale* was considered to be endangered.

On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) accepting the report as a petition to list the species within the context of section 4(c)(2) (now section 4(b)(3)(A)) of the Act), and giving notice of its intention to review the status of the plant taxa named therein. In this and subsequent notices, *Lilium occidentale* was treated as under petition for listing as endangered. As a result of that review, on June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant species, including *L. occidentale*. The list of 1,700 plant species was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication.

In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2-years old. On December 10, 1979, the Service published a notice in the **Federal Register** (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, including *Lilium occidentale*, along with four other proposals that had expired.

The Service published an updated Notice of Review for plants on December 15, 1980 (50 FR 82480) including *Lilium occidentale* as a category 1 species, meaning that the Service had sufficient information to support a proposal for listing. A review of the information available on this species in 1985 indicated that category 2 status was more appropriate, and the plant was included as such in the September 27, 1985 (50 FR 39526) Notice of Review for plants. Category 2 species are taxa for which the Service has some information indicating that listing may be warranted, but additional information on biological vulnerability and threats is needed to support a proposal for listing as threatened or endangered. In 1989, a status review of the species was completed (Schultz 1989). This report provided the additional information necessary to elevate the species to a category 1 candidate; it was included as such in the February 21, 1990, Plant Notice of Review (55 FR 6184).

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. On October 13, 1983, the Service found that the petitioned listing of this species was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notice of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled yearly pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed each year from 1984 through 1991. A proposal to list *Lilium occidentale* as endangered was published in the **Federal Register** on October 26, 1992 (57 FR 48495). The Service now determines *L. occidentale* to be endangered with the publication of this rule.

Summary of Comments and Recommendations

In the October 26, 1992, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final listing decision. Appropriate State agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in The Oregonian paper, Portland, Oregon, on November 27, 1992, and The World paper, Coos Bay, Oregon, on November 25, 1992, which invited general public comment. Three letters were received. Two letters, both from private citizens, were in support of the listing. One letter, from a local government, questioned whether there has been enough study on the need to list the species, its habitat requirements, or whether habitat changes such as cranberry farming may actually benefit the plant.

Service Response: The Service believes that the status review of the plant was very thorough. All known populations from historical herbarium collections were checked, and many were found to be extirpated. The restricted habitat requirements of the species are accurately known, and most suitable habitat has been searched. Additionally, the Service contacted all individuals knowledgeable about the species prior to proposing it for listing to assess the most current information about the status of the species. In response to the concern with the ability of the lily to grow in cranberry farms, a small population of lilies was found in 1992 in an apparently abandoned

cranberry bog (Bruce Rittenhouse, Coos Bay District, Bureau of Land Management, pers. comm.). No populations have been found in active cranberry farms.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Lilium occidentale* should be classified as an endangered species. Procedures found at section 4 of the Act (16 U.S.C. 1533) and regulations promulgated to implement the listing provisions (50 CFR part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *L. occidentale* Purdy (western lily) are as follows:

A. *The present or threatened destruction, modification, or curtailment of habitat or range. Lilium occidentale* existed historically at several sites above Humboldt Bay in northern California. These populations have been extirpated by development or, in some cases, encroachment by forest. From the 1940's to the present, conversion of bog habitat to cranberry farms, roads, and residential dwellings has eliminated suitable *L. occidentale* habitat as well as some populations of the plant in the area from Bandon south to Cape Blanco, Oregon (Schultz 1989). This area contained perhaps the greatest concentration of the species in Oregon 40 to 50 years ago, according to native plant collectors and old-time residents of the area (Ballantyne 1980). In 1988, this area contained 6 small populations with a total of fewer than 125 flowering plants (Schultz 1989). Clearing and draining along the Elk and Sixes Rivers in Oregon for livestock grazing have eliminated many of the once numerous populations there (Ballantyne 1980). In the mid-1960's, the construction of a picnic area and restroom facility in an Oregon State Park destroyed another population. In the summer of 1987, trail maintenance by a crew from this same State Park destroyed the flowering shoots of six *L. occidentale* (Schultz 1989).

In 1984, the city of Brookings, Oregon, under an easement permit from the Oregon Department of Transportation (ODOT), buried a sewer line along a powerline right-of-way through a lily bog that had contained up to 100 plants (Veva Stansell, U.S. Forest Service, pers. comm.) The fill eliminated all the *Lilium occidentale* in a 20-ft (6.1 meter) wide strip, destroying almost half of the available lily habitat. The species that later colonized the fill, rushes and alder, were not the same as those found in the adjoining bog (e.g., sphagnum and *Drosera* sundews) (Schultz 1989). In 1991, the City of Brookings again obtained permission from ODOT to bury a larger sewer line in the site, widening the destroyed area to approximately 25 ft (7.6 meters). The project was completed without obtaining proper wetland fill permits (John Craig, Army Corps of Engineers, pers. comm., 1991). It is unlikely that the filled area will support *L. occidentale* in the future (Stewart Schultz, University of British Columbia, pers. comm., 1991). The effects on the hydrology of the remaining bog are as yet unknown. At a second site, a private developer drained a lily bog that historically contained about 100 plants, without obtaining a State or Federal permit for the wetland activity. Two lilies were found remaining between two drainage ditches (Richard Mize, California Native Plant Society, pers. comm., 1991).

Future development activities threaten the remaining sites where *Lilium occidentale* occurs. The largest known population occurs partly on private land in Crescent City, California. This land has been surveyed and is platted as a subdivision in city records (Richard Mize, pers. comm., 1991). Other nearby populations are privately owned and the owner has expressed the desire to develop the land (Dave Imper, pers. comm., 1991). The ODOT is currently planning to widen Highway 101 at another lily site. After the proposed rule was published, ODOT modified their plans and will avoid the lily population. Such pressure to develop wetland sites occupied by this lily will likely increase in the future. The lily is limited to habitat very near the coast that is currently undergoing intense development pressure. The species' bog and coastal prairie/scrub habitat occurs on level marine terraces that are desirable for coastal development because of the gentle topography and proximity to the ocean.

B. *Overutilization for commercial, recreational, scientific, or educational purposes. Lilium occidentale* is a showy, rare lily and the species has been collected by lily growers and for the commercial trade since before the 1930's. After the location of a California population of *L. occidentale* was published in lily society yearbooks in 1934, 1955, and 1972, bulb collecting by lily growers and breeders decimated the population (Ballantyne, 1980). Overcollection continues sporadically at sites in Oregon and California (Schultz 1989). For example, in June 1987, seven bulbs were dug from an Oregon site. Lily breeders collect *L. occidentale* seed regularly from several sites. Plants near trails and roads are occasionally picked: at least seven plants were picked in 1985, four to six in 1986, five in 1987, and two in 1988 at a site in Oregon (Schultz 1989). *Lilium occidentale* was reportedly advertised for sale in western United States and British seed and bulb catalogues (Siddall and Chambers 1978). Overcollection currently threatens this plant and would likely increase, if specific locations of this plant were publicized.

C. *Disease or predation.* Although a limited amount of grazing may be of benefit to *Lilium occidentale,* if it prevents forest succession (see Factor E); overgrazing by cattle is considered a threat to this plant. Until recently, livestock overgrazing on the lily and surrounding vegetation was severe at three California ranch sites (Schultz 1989). The lily population at one ranch was reduced from over 100 flowering individuals in 1984 to fewer than 10 between 1985 and 1988. At another ranch, half of the fruits were grazed by deer and cattle in 1985. By July 1987, cattle had crushed 32 percent and grazed another 25 percent of 49 flowering shoots. Only 17 intact fruits remained in August (Imper et al. 1987). Deer and elk herbivory is severe at 3 Oregon sites; 50 to 60 percent of fruit in one population of about 60 flowering plants were browsed in 1987 and 1988 (Schultz 1989). Unknown vandals destroyed all flowering shoots at one site in 1980 (Ballantyne 1980).

Deer browsing continues to be a threat at the Oregon sites. The fences, however, are not deer-proof and deer are common at these ranches. Though occurring sporadically, browsing by deer can cause major damage.

Grazing of leaves, buds, and flowers by Coleopteran and Lepidopteran larvae is an ongoing threat at one California site (Imper et al. 1987). The highly clumped distribution and small number of populations of *Lilium occidentale* make any fungal, viral, or bacterial disease a potential threat. Fungal pathogens are common in cultivated lilies; growers often avoid planting in ground known to be contaminated.

D. *The inadequacy of existing regulatory mechanisms. Lilium occidentale* is listed as an endangered species in both California (Chapter 1.5, § 2050 *et seq.*) and Oregon (ORS 564.100—564.135; OAR 603–73–005 *et seq.*), and is included in the Oregon Wildflower Protection Act (ORS 564.020). In California, the "take" of State-listed plants is prohibited, but the law exempts the taking of such plants

via habitat modification or land use change by the landowner. After the California Department of Fish and Game notifies a landowner that a State-listed plant grows on his or her property, State law requires only that the landowner notify the agency "at least 10 days in advance of changing the land use to allow salvage of such plant" (Chapter 1.5, § 1913). In Oregon, the "take" of State-listed plants is prohibited only on State-owned or -leased lands. Enforcement of State endangered species laws is inadequate, as is evident from the list of recent depredations in Factor C above, and from the "take" of lilies by activities of the city of Brookings on Oregon Department of Transportation land, as described in Factor A above. The seriousness of the problem of enforcement is underscored by the fact that this lily population on State land was twice subjected to destruction, although all involved parties were informed of the presence of the rare lily after the first incident.

Lilium occidentale grows in wetland habitat. Under section 404 of the Clean Water Act, the U.S. Army Corps of Engineers (Corps) regulates the discharge of fill into the waters of the United States, including wetlands. The Clean Water Act requires project proponents to notify the Corps and obtain a permit prior to undertaking many activities (e.g., grading, discharge of soil or other fill material, etc.) that would result in the fill of wetlands under the Corps' jurisdiction.

The Corps promulgated Nationwide Permit No. 26 (33 CFR 330, Appendix A) to address fill of isolated or headwater wetlands totalling less than 10 acres. Where fill would adversely modify less than 10 acres of wetland, the Corps circulates a predischarge notification to the Service and other interested parties for comment to determine whether or not an individual permit should be required for a proposed fill activity and associated impacts. The Corps must respond within 30 days or the proposed activity will be authorized under the nationwide permit.

Individual permits are required for the discharge of fill material that would fill or adversely modify greater than 10 acres of wetlands or any size wetland if proposed or listed species are present and could be adversely affected by the proposed activity. The review process for the issuance of individual permits is more rigorous than for nationwide permits. Unlike nationwide permits, an analysis of cumulative wetland impacts is required for individual permit applications. Resulting permits may include special conditions that require avoidance or mitigation of environmental impacts. On nationwide permits, the Corps has discretionary authority to require an applicant to seek an individual permit if the Corps believes that the resources are sufficiently important, regardless of the wetland's size. In practice, the Corps rarely requires an individual permit when a project would qualify for a nationwide permit, except when a threatened or endangered species or other significant resource would be adversely affected by the proposed activity.

Most of the populations of *Lilium occidentale* occur in wetlands that are less than 10 acres in size. Many are only a few square yards, and many are in wetlands with no surface drainage to streams (i.e., "isolated"). Therefore, filling them could fall under Nationwide Permit No. 26. If *L. occidentale* is listed as endangered, formal consultation with the Service would be required before the Corps could issue an individual section 404 permit that may adversely affect the lily.

E. *Other natural or manmade factors affecting its continued existence.* The primary long-term natural threat to *Lilium occidentale is* competitive exclusion by shrubs and trees as a result of succession in bogs and coastal prairie/scrub. Human activities such as draining of wetlands, clearing of land, elimination of beaver, and stabilization of moving sand areas have interrupted the natural processes of bog and wetland creation. As late-stage bogs and coastal scrub go through succession to forest, lily habitat is eliminated with little new habitat being created. There is some indication that *L. occidentale* populations have been maintained in the past by periodic fires, perhaps set by native Americans (Schultz 1989). Charcoal is abundant in the soil at several of the major populations, indicating past fires. Fires are now rare events in these areas.

Young plants of this species are almost always recruited under shrub cover, but the lily is shaded out if the canopy cover is greater than 50 percent or shrubs are over 2 meters (6 ft) high. Several populations and portions of populations have already been extirpated by forest succession. Eleven populations (ranging from 2 to about 1,000 plants) currently are seriously stressed from competition, as indicated by low reproductive rates (Schultz 1989). Individual plants do not flower every year, apparently as an energy-saving mechanism when stressed. Health of a population can be evaluated by the number of flowering versus non-flowering plants, and the number of blooms per plant. It has been suggested that the 11 stressed populations would probably survive less than a decade without habitat manipulation (Schultz 1989). Invasion by the exotic shrub gorse (*Ulex europaeus*) into the bog habitat of *Lilium occidentale* has eliminated suitable habitat in Oregon near Blacklock Point (Ballantyne 1980).

At four California ranch populations, livestock exclosure fences have solved the immediate problem of overgrazing (Dave Imper, pers. comm., 1992). A limited amount of grazing may actually benefit the species by preventing succession. Over time, without habitat management, forest succession within the exclosures would limit the lilies to the well-lighted edges of the exclosures and reproduction would deteriorate.

Some populations are so small (2 to 100 flowering plants) that loss of genetic variability is a threat. Plants with genetic abnormalities such as 4-merous flowers, tepals replacing stamens, stamens replacing tepals, and double flowers have been observed over two or more seasons at sites in both California and Oregon. The effects of inbreeding may already be adversely affecting the viability of these small populations and remains a future threat to the plant (Schultz 1989).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by *Lilium occidentale* in determining to make this rule final. Based on this evaluation, the preferred action is to list *L. occidentale* as endangered. This species occupies an extremely restricted geographic range and is comprised of a total of 2,000 to 3,000 flowering individuals. Residential development, conversion of habitat to cranberry farms, shrub and tree succession, overcollection, vandalism, overgrazing, and loss of genetic diversity threaten this plant with extinction. Because the plant is in danger of extinction throughout its range, it fits the definition of endangered under the Act.

Critical habitat is not being designated for this species for reasons discussed in the "Critical Habitat" section of this rule.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is listed. The Service finds that designation of critical habitat is not presently prudent for this species. As discussed under Factor B in the "Summary of Factors Affecting the Species," *Lilium occidentale* is

threatened by taking. The publication of precise maps and descriptions of critical habitat in the **Federal Register**, as required for the designation of critical habitat, would increase the degree of threat to this species from take or vandalism and, therefore, could contribute to its decline and increase enforcement problems. The listing of this species under the Act publicizes the rarity of the species and, thus, could make this plant attractive to researchers, curiosity seekers, or collectors of wildflowers or rare plants. All involved parties and landowners have been notified of the importance of protecting this species' habitat. Protection of the species' habitat will be addressed through the recovery process and the section 7 consultation process. Therefore, the Service finds that designation of critical habitat for this species is not prudent at this time because such designation would increase the degree of threat from collecting or other human activities.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species. If a Federal action may affect a listed species, the responsible Federal agency must enter into consultation with the Service.

The U.S. Army Corps of Engineers will become involved with this plant species after listing through its permitting authority as described under section 404 of the Clean Water Act. By regulation, permits may not be issued where a federally listed endangered or threatened species would be affected by the proposed project without first completing consultation pursuant to section 7 of the Act. The presence of a listed species would highlight the national importance of these resources. In addition, insurance of housing loans by the Department of Housing and Urban Development in areas that presently support *Lilium occidentale* will be subject to review by the Service under section 7 of the Act.

The Act and its implementing regulations found at 50 CFR 17.61 and 17.62, set forth a series of prohibitions and exceptions that apply to listed plant species. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction of any such species on lands under Federal jurisdiction; or removal, cutting, digging up, damaging, or destroying of such plants in knowing violation of any State law or regulation, or in the course of any violation of a State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. Such permits are available for scientific purposes and to enhance propagation or survival of the species. It is anticipated that trade permits might be sought because the species is in cultivation and is very rare in the wild. Requests for copies of the regulations regarding listed species and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181 (503/231-6241; FAX 503/231-6243).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Boise Field Office (see **ADDRESSES** section).

Author

The primary author of this final rule is Helen Ulmschneider, U.S. Fish and Wildlife Service, Boise Field Office (see **ADDRESSES** section), 208/334-1931.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Public Law 99-625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under the family Liliaceae, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rule
Scientific name	Common name					
• •	•	•	•	•		•
LILIACEAE (LILY FAMILY)						
• •	•	•	•	•		•
Lilium occidentale	Western lily	USA (CA, OR)	E	545	NA	NA
• •	•	•	•	•		•

Dated: July 26, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94-20162 Filed 8-16-94; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 081194E]

Atlantic Tuna Fisheries; Bluefin Tuna

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure of the General category fishery.

SUMMARY: NMFS has determined that the 1994 General category quota, minus a 65 metric tons (mt) set aside for a late season fishery beginning September 15th, will be taken by August 14, 1994. Therefore, the General category fishery will be closed effective at 0001 hours on Monday, August 15, 1994. This action is being taken to prevent overharvest of the quota established for this fishery while providing an opportunity for areas that have not yet had an ample opportunity to harvest a fair share of the quota beginning September 15, 1994.

EFFECTIVE DATE: 0001 hours on August 15, 1994, through September 14, 1994.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301-713-2347, or Raymond E. Baglin, 508-281-9140.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285. Section 285.22 subdivides the International Commission for the Conservation of Atlantic Tunas recommended U.S. quota among the various domestic fishing categories.

Implementing regulations for the Atlantic Tuna Fisheries at 50 CFR 285.22(a) provide for an annual quota of 531 mt of large medium and giant Atlantic bluefin tuna to be harvested from the Regulatory Area by vessels permitted in the General category. Of this amount, 65 mt are set aside for a late season fishery beginning September 15. The Assistant Administrator for Fisheries, NOAA, is required under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of Atlantic bluefin tuna will equal the annual quota minus 65 mt, and to publish a **Federal Register** document stating that fishing for, retaining, possessing, or landing Atlantic bluefin tuna under the early-season quota must cease on that date at a specified hour, and not recommence until September 15th, whereupon a quota equal to the difference between the annual quota and the estimated catch prior to September 15th will become available.

The General category has taken approximately 364 mt of its 531 mt quota as of August 10, 1994. While NMFS had calculated an average catch in August of 12 mt per day, industry contacts have informed NMFS that catch per day has increased to 17 mt per day or more. Atlantic bluefin tuna are still abundant off of Maine and Massachusetts, the primary commercial fishing grounds, and have not migrated offshore and further south. Effort by General category vessels remains high.

Based on the landing reports, it is projected that the quota of Atlantic bluefin tuna allocated for the General category, minus a 65 mt set aside amount for the late season fishery will be reached by August 14, 1994. Fishing for, retention of, possessing, or landing large medium or giant Atlantic bluefin tuna by vessels in the General category must cease by 0001 hours August 15, 1994. The intent of this action is to prevent overharvest of the quota established for this fishery while helping continue traditional late summer and early fall fisheries and providing a fishing opportunity in areas that have not yet had an ample opportunity to harvest a fair share of the quota.

Beginning September 15, 1994, in areas to be described and under conditions to be specified in a future document to be filed with the Office of the Federal Register, vessels permitted in the General category may resume fishing for Atlantic bluefin tuna at a catch rate of one large medium or giant bluefin tuna per day per vessel, until the set aside allocation has been taken.

Classification

This action is taken under 50 CFR 285.20(b) and is exempt from OMB review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: August 11, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

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50 CFR Part 651

[Docket No. 931076-4220; I.D. 071194C]

Northeast Multispecies Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues this final rule to make corrections and clarifications to the regulations implementing Amendment 5 to the Northeast Multispecies Fishery Management Plan (FMP).

EFFECTIVE DATES: This final rule is effective August 12, 1994 except for § 651.9(a)(14) which is effective September 12, 1994.

FOR FURTHER INFORMATION CONTACT: Christopher B. McCarron, NMFS, Fishery Management Specialist, 508-281-9139.